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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/673,744

09/29/2003

Martin Tross

IL920030033US1

1477

7590

10/19/2006

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EXAMINER

PEIKARI, BEHZAD

ART UNIT

PAPER NUMBER

2189

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/673,744

**Applicant(s)**

TROSS ET AL.

**Examiner**

B. James Peikari

**Art Unit**

2189

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-40 is/are allowed.
- 6) ☒ Claim(s) 41-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Specification***

1. The specification is objected to because title of the invention is not descriptive of the claimed invention. A new title is required that is clearly indicative of the invention to which the *claims* are directed. The claims do not mention "low cost".
2. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 41-60 are rejected under 35 U.S.C. 101 because they are not limited to tangible embodiments. In view of applicants' disclosure, specification page 12, lines 19-25, the claimed "computer-readable medium in which program instructions are stored" for the control units is not limited to tangible embodiments, instead being defined as including tangible embodiments (e.g., CD-ROM) or intangible embodiments (e.g., "software ... in electronic form") or both (e.g., "alternatively or additionally"). As such, the claims are not limited to statutory subject matter and is therefore non-statutory.

***Claim Rejections - 35 USC § 102***

5. The previous rejections under 35 U.S.C. 102(e) are withdrawn due to the declaration under 37 CFR 1.131 filed on August 2, 2006, since at least the date January 4, 2003 from exhibit A precedes the March 21, 2003 filing date of the Ohno reference.

***Claim Rejections - 35 USC § 103***

6. The previous rejections under 35 U.S.C. 103 are withdrawn due to the declaration under 37 CFR 1.131 filed on August 2, 2006, since at least the date January 4, 2003 from exhibit A precedes the March 21, 2003 filing date of the Ohno reference.

***Allowable Subject Matter***

7. The reference cited herewith is the Japanese counterpart application of the Ohno reference (with the first inventor's name spelled "Ono"), precedes the earliest dates presented in applicant's declaration under 37 CFR 1.131, with a filing date of June 5, 2002. However, with a publication in the Japanese language on January 15, 2004, this reference may not be cited as prior art against the present claims in accordance with 35 U.S.C. 102.

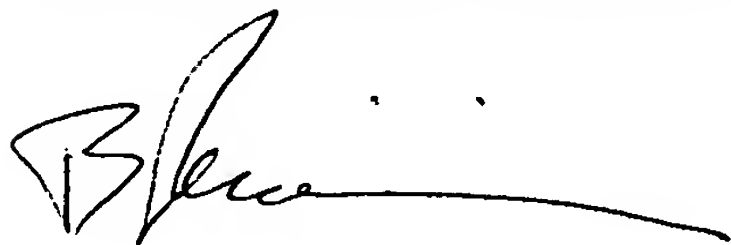
Consequently, claims 1-40 are allowed.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Peikari whose telephone number is (571) 272-4185. The examiner is generally available between 7:00 am and 7:30 pm, EST, Monday through Wednesday, and between 5:30 am and 4:00 pm on Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Reginald Bragdon, can be reached at (571) 272-4204. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center at 866-217-9197 (toll-free).



B. James Peikari  
Primary Examiner  
Art Unit 2189  
10/14/06